IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2274 OF 2007

Shubhangi Parshuram Patwardhan ..... Petitioner.

V/s

The Principal,
Smt. Champaben Balchand Shah
Mahila Maha Vidyalaya & Ors. ..... Respondents.

Mr. A.M. Kulkarni for the Petitioner.

Mr. V.P. Malvankar, AGP for Respondent Nos. 4 and 5.

Mr. S.G. Deshmukh for Respondent Nos. 2 and 6.

CORAM : D.K. DESHMUKH &
V.M. KANADE, JJ.
DATE : 26th November, 2007.

P.C.:

1. The Petitioner's case is that because the Petitioner is working as a Clock Hour Teacher, she was entitled to be given the clear vacancy without the post being advertised, because of the Government Resolution. It prima facie appears that the Government Resolution which contemplates appointment of a Clock Hour Teacher on permanent basis without permanent vacancy being advertised so that the persons who may be eligible for the post get an opportunity

to contest, may not be enforceable but, even assuming that the Resolution to be enforceable, from the following conduct of the Petitioner it is obvious that the Petitioner waived her rights, if any, under that Government Resolution.

2. Admittedly, the post was advertised. The advertisement was published. The Petitioner, instead of challenging that advertisement, submitted an application under that advertisement. The Petitioner was called for an interview. She appeared in the interview. It is only after Respondent No.6 was appointed that the present Petition has been filed. The conduct of the Petitioner of making an application pursuant to the advertisement without challenging the advertisement or appearing for interview and waiting till selection process was completed, in our opinion, amounts to waiver of her rights under the Government Resolution. The Government Resolution, obviously, has been framed for the benefit of candidates like the Petitioner and, therefore, it was always open to the Petitioner to waive the benefit which is conferred on her and, by her conduct, she has chosen to waive that benefit. The Petitioner, therefore, cannot now turn around and claim that benefit.

3. Petition is rejected.

(D.K. DESHMUKH, J.)

(V.M. KANADE, J.)